

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>ELOUISE PEPION COBELL, <u>et al.</u>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action Number 96-1285 (RCL)</b>
	)	
<b>GALE A. NORTON, Secretary of the Interior, <u>et al.</u>,</b>	)	
	)	
	)	
<b>Defendants.</b>	)	
	)	

**ORDER**

After finding defendants Gale Norton, Secretary of the Interior, and Neal McCaleb, Assistant Secretary of Interior for Indian Affairs, in civil contempt for committing several frauds on the Court, the Court ordered that a Special Master-Monitor be appointed in this case. Pursuant to Rule 53 of the Federal Rules of Civil Procedure, the Court HEREBY APPOINTS Joseph S. Kieffer, III to serve as Special Master-Monitor in this regard.

As the Court noted in its order appointing Mr. Kieffer as Court Monitor on April 16, 2001:

Mr. Kieffer has extensive experience and training in the management, restructuring and reform of major U.S. Government and civilian organizations. He has a Bachelor of Sciences in Engineering, a Masters in System Management, and a Juris Doctorate. In the previous ten years, he has served several multinational corporations in positions ranging from Managing Director, Senior Vice President, and General Counsel. Prior to that, he held various government positions, including one in which he was responsible for obtaining worldwide compliance with Presidential Executive Orders. Finally, Mr. Kieffer has also served as Director of Litigation for the Manville Personal Injury Settlement Trust, a trust valued at over \$3 billion.

In addition to these qualifications, Mr. Kieffer served as Court Monitor in this case for seventeen months. During his service as Court Monitor, Mr. Kieffer learned a great deal about the IIM trust and

the Interior defendants' efforts to discharge properly their fiduciary obligations. In fact, Mr. Kieffer examined many of the same activities by the Interior Department that the Special Master-Monitor will now be tasked with monitoring. Thus, the knowledge and experience that Mr. Kieffer gained as Court Monitor, in addition to his already impressive credentials, makes him an ideal choice to serve as the Special Master-Monitor in this action.

The Court's Order finding Secretary Norton and Assistant Secretary McCaleb in civil contempt stated that the Special Master-Monitor would be appointed to "monitor the status of trust reform and the Interior defendants' efforts as they relate to the duties declared by the Court and prescribed in the 1994 Act." The order further provided that "[t]he Special Master-Monitor shall ensure that the Court (and the plaintiffs) receive complete and accurate information regarding these matters by periodically filing status reports. In these reports, the Special Master-Monitor may apprise the Court of any other matters that he deems pertinent to this litigation, but take no further action without prior approval of the Court, as well as provide the Court with any recommendations he may have regarding issues identified in the reports." Finally, the Court's order indicated that "[t]he Special Master-Monitor shall also oversee the discovery process and administer document production, except insofar as the issues raised by the parties relate to IT security, records preservation and retention, the Department of the Treasury, or Paragraph 19 documents." In accordance with this order, the Court HEREBY ORDERS that:

1. Joseph S. Kieffer, III shall serve as Special Master-Monitor in this action.
2. The Special Master-Monitor shall be compensated at the prevailing market rate for his services and shall be reimbursed for all expenses incurred in connection with the appointment. The

Interior defendants shall bear these costs, as they are the ones that necessitated this appointment.

3. The Special Master-Monitor shall have and shall exercise the power to regulate all proceedings in every hearing before the master-monitor and to do all acts and take all measures necessary or proper for the efficient performance of the master-monitor's duties, as set forth in this order.

4. The Special Master-Monitor shall monitor the status of trust reform and the Interior defendants' efforts as they relate to the duties declared by the Court and prescribed in the 1994 Act.

5. The Special Master-Monitor is directed to periodically file reports with the Court to ensure that the Court and the plaintiffs receive complete and accurate information regarding the matters mentioned in paragraph 4. In these reports, the Special Master-Monitor may also apprise the Court of any other matter that he deems pertinent to this litigation, as well as provide the Court with any recommendations he may have regarding issues identified in the reports. The Special Master-Monitor shall not, however, take any further action without prior approval of the Court. The Special Master-Monitor shall provide a copy of each of his reports to the parties.

7. The Special Master-Monitor shall file a final report with the Court when the defendants have brought themselves into compliance with their fiduciary duties as declared by the Court and prescribed in the 1994 Act. This report shall certify that there is no longer a need for a Special Master-Monitor to monitor the status of trust reform and the Interior defendants' efforts as they relate to the duties declared by the Court and prescribed in the 1994 Act.

8. The Special Master-Monitor shall also oversee the discovery process in this case and administer document production--except insofar as the issues raised by the parties relate to IT security,

records preservation and retention, the Department of the Treasury, and Paragraph 19 documents--to ensure that discovery is conducted in the manner required by the Federal Rules of Civil Procedure and the orders of this Court. The Special Master-Monitor shall file with the Court, with copies to defendants' and plaintiffs' counsel, his report and recommendation as to any discovery dispute that arises which cannot be resolved by the parties.

9. The Special Master-Monitor is directed to periodically file reports with the Court, with copies to defendants' and plaintiffs' counsel, that bring to the Court's attention all discovery disputes encountered in this case, as contemplated in paragraph 8 of this order. These reports shall also apprise the Court of the status of the Special Master-Monitor's report and recommendation as to all such disputes.

10. The Special Master-Monitor shall file a final report with the Court when the portions of discovery that he is overseeing have been completed. This report shall certify that there are no remaining discovery disputes concerning matters encompassed by paragraph 8 of this order.

11. The Special Master-Monitor may, at any time, call to the Court's attention any matter that bears on the compliance with any order of this Court or any applicable law. Any information reported to the Court by the Special Mater-Monitor shall also be reported to counsel for the parties.

SO ORDERED.

Date: \_\_\_\_\_

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Royce C. Lamberth  
United States District Judge